

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT CHARLESTON

LOWELL DEAN, JUAN ECHEGARAY,  
JIMMY GOBLE, JAMES HALL, KENNETH  
LAWS, ADAM MCCLUNG, MARSHALL  
MARTIN, JIMMY MAYNARD, JR.,  
JOSHUA MEADE, et al.,

Plaintiffs,

v.

Case No. 2:13-cv-2485

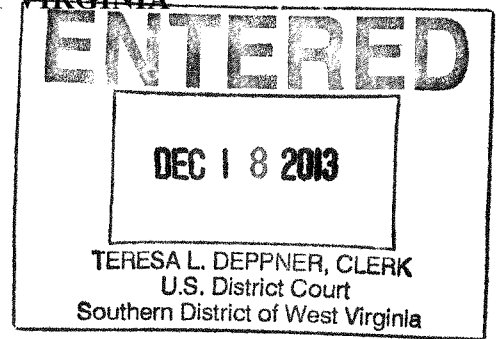
KENTUCKY FUEL CORPORATION,  
SOUTHERN COAL COMPANY, and  
ANTHEM BLUE CROSS,

Defendants.

**ORDER**

This 18th day of December, 2013, came the Petitioners, Jimmie Maynard, Jr., Juan Echegaray, Kenneth Laws, Marshall Martin, Wallace Meade, Johnny Paige, Jimmy Payne, Albert Smith, II, Bobby Ward, and Jeffrey Wolford; all of whom had family coverage that applied to their minor beneficiaries (sometimes hereinafter referred to as "Petitioners") under the Southern Coal Health Care Plan (the "Plan"), and pursuant to the Verified Motion to Approve Settlement and Verified Supplemental Motion to Approve Settlement (hereinafter collectively referred to as the "Petition") already filed in this action, seek the authority of this Court to compromise and settle for any claims to their minor beneficiaries.

Thereupon, came Robert Bastress, as guardian *ad litem* for the minor beneficiaries, and tendered to the Court and asked leave to file his Answer and Supplemental Answer, and the Court, inspecting Mr. Bastress' pleadings and finding them proper, Orders the same filed.



Thereupon, the Court proceeded to hear from the Petitioners, the guardian *ad litem* and others in relation to the matters arising upon the Petition, and independent of anything contained therein, the Court is of the opinion and does find that the settlement for the claims of the minor beneficiaries identified below is a fair and equitable one and that the granting of the prayer in said Petition would promote the best interest of the minor beneficiaries:

- a. Petitioner Jimmie Maynard, Jr. is the parent (father) and/or legal guardian of Jaxson Maynard<sup>1</sup>, a male child born on 11/3/04, and 8 years of age; and Abigail Maynard, a female child born on 1/3/08, and 5 years of age.
- b. Petitioner Juan Echegaray is the parent (father) and/or legal guardian of Chelsea Echegaray, a female child born on 1/29/2004, and 9 years of age; Kaitlyn Echegaray, a female child born on 4/11/2008, and 5 years of age; Naomi Echegaray, a female child born on 10/12/1998, and 15 years of age; Colby Vargas<sup>2</sup>, a male child born on 3/29/2001, and 12 years of age; Jaret Echegaray, a male child born on 9/21/2005, and 7 years of age; and Juan Echegaray, a male child born on 9/5/2002, and 11 years of age.
- c. Petitioner Kenneth Laws is the parent (father) and/or legal guardian of Kenna Laws, a female child born on 1/18/2000, and 13 years of age.
- d. Petitioner Marshall Martin is the parent (father) and/or legal guardian of Cierra Holcomb, a female child born on 7/15/2002, and 11 years of age; and Zachary Holcomb, a male child born on 7/19/2009, and 4 years of age.

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<sup>1</sup> Although the Plan's records identify Mr. Maynard, Jr.'s son as "Jayson Maynard," the correct spelling of the minor child's name is Jaxson.

<sup>2</sup> Incorrectly identified as "Coby Echegaray" in the Petitioners' prior pleadings and the Guardian Ad Litem's Answer.

- e. Petitioner Wallace Meade is the parent (father) and/or legal guardian of Jenna Meade, a female child born on 7/7/1999, and 14 years of age.
- f. Petitioner Johnny Paige is the parent (father) and/or legal guardian of Johnny Paige, Jr., a male child born on 10/19/2002, and 11 years of age; Christopher Walker, a male child born on 6/22/1999, and 14 years of age; and Andrew Paige, a male child born on 5/7/2004, and 9 years of age.
- g. Petitioner Jimmy Payne is the parent (father) and/or legal guardian of Hannah Payne<sup>3</sup>, a female child born on 5/6/2006, and 7 years of age; and Makayla Payne, a female child born on 8/17/2004, and 9 years of age.
- h. Petitioner Albert Smith, II is the parent (father) and/or legal guardian of Alexis Hill, a male child born on 3/24/2003, and 10 years of age; Brandon Hill, a male child born on 1/23/2000, and 13 years of age; and Riley Smith, a female child born on 1/8/2008, and 5 years of age.
- i. Petitioner Bobby Ward is the parent and/or legal guardian of Brandon Ward, a male child born on 6/16/2003, and 8 years of age.
- j. Petitioner Jeffrey Welford is the parent and/or legal guardian of Zachary Welford a male child born on 8/27/2010, and 2 years of age.

Specifically, the funds will be distributed as follows:

- a. Jaxson Maynard shall receive approximately half of the \$500 Beneficiary Payment issued to Petitioner Jimmie Maynard, Jr. on behalf of his beneficiaries.

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<sup>3</sup> Incorrectly identified as "Hanna Payne" in Petitioners' previous pleadings and the Guardian Ad Litem's Answers.

- b. Abigail Maynard shall receive approximately half of the \$500 Beneficiary Payment issued to Petitioner Jimmie Maynard, Jr. on behalf of his beneficiaries.
- c. Chelsea Echegaray shall receive approximately one-eighth of the \$500 Beneficiary Payment issued to Petitioner Juan Echegaray and his spouse, if applicable, on behalf of his beneficiaries.
- d. Kaitlyn Echegaray shall receive approximately one-eighth of the \$500 Beneficiary Payment issued to Petitioner Juan Echegaray and his spouse, if applicable, on behalf of his beneficiaries.
- e. Naomi, Echegaray shall receive approximately one-eighth of the \$500 Beneficiary Payment issued to Petitioner Juan Echegaray and his spouse, if applicable, on behalf of his beneficiaries.
- f. Colby Vargas shall receive approximately one-eighth of the \$500 Beneficiary Payment issued to Petitioner Juan Echegaray and his spouse, if applicable, on behalf of his beneficiaries.
- g. Jaret Echegaray shall receive approximately one-eighth of the \$500 Beneficiary Payment issued to Petitioner Juan Echegaray and his spouse, if applicable, on behalf of his beneficiaries.
- h. Juan Echegaray shall receive approximately one-eighth of the \$500 Beneficiary Payment issued to Petitioner Juan Echegaray and his spouse, if applicable, on behalf of his beneficiaries.

- i. Kenna Laws shall receive approximately one-third of the \$500 Beneficiary Payment issued to Petitioner Kenneth Laws and his spouse, if applicable, on behalf of his beneficiaries.
- j. Cierra Holcomb shall receive approximately one-third of the \$500 Beneficiary Payment issued to Petitioner Marshall Martin and his spouse, if applicable, on behalf of his beneficiaries.
- k. Zachery Holcomb shall receive approximately one-third of the \$500 Beneficiary Payment issued to Petitioner Marshall Martin and his spouse, if applicable, on behalf of his beneficiaries.
- l. Jenna Meade shall receive approximately half of the \$500 Beneficiary Payment issued to Petitioner Wallace Meade and his spouse, if applicable, on behalf of his beneficiaries.
- m. Johnny Paige, Jr. shall receive approximately one-fourth of the \$500 Beneficiary Payment issued to Petitioner Johnny Paige and his spouse, if applicable, on behalf of his beneficiaries.
- n. Andrew Paige shall receive approximately one-fourth of the \$500 Beneficiary Payment issued to Petitioner Johnny Paige and his spouse, if applicable, on behalf of his beneficiaries.
- o. Christopher Walker shall receive approximately one-fourth of the \$500 Beneficiary Payment issued to Petitioner Johnny Paige and his spouse, if applicable, on behalf of his beneficiaries.

- p. Hannah Payne shall receive approximately one-third of the \$500 Beneficiary Payment issued to Petitioner Jimmy Payne and his spouse, if applicable, on behalf of his beneficiaries.
- q. Makayla Payne shall receive approximately one-third of the \$500 Beneficiary Payment issued to Petitioner Jimmy Payne and his spouse, if applicable, on behalf of his beneficiaries.
- r. Alexis Hill shall receive approximately one-fourth of the \$500 Beneficiary Payment issued to Petitioner Albert Smith, II and his spouse, if applicable, on behalf of his beneficiaries.
- s. Brandon Hill shall receive approximately one-fourth of the \$500 Beneficiary Payment issued to Petitioner Albert Smith, II and his spouse, if applicable, on behalf of his beneficiaries.
- t. Riley Smith shall receive approximately one-fourth of the \$500 Beneficiary Payment issued to Petitioner Albert Smith, II and his spouse, if applicable, on behalf of his beneficiaries.
- u. Brandon Ward shall receive approximately half of the \$500 Beneficiary Payment issued to Petitioner Bobby Ward and his spouse, if applicable, on behalf of his beneficiaries.
- v. Lora Ward shall receive approximately half of the \$500 Beneficiary Payment issued to Petitioner James Ward and his spouse, if applicable, on behalf of his beneficiaries.

w. Zachary Welford shall receive approximately half of the \$500 Beneficiary Payment issued to Petitioner Jeffrey Welford and his spouse, if applicable, on behalf of his beneficiaries.

It is, therefore, considered by the Court and ORDERED and ADJUDGED that Petitioners be and they are hereby authorized, directed and empowered to settle the claims as a result of the injuries to their minor beneficiaries.

It is further ORDERED and ADJUDGED that upon the receipt of the sums identified above, the Petitioners are authorized and empowered to execute a release to Defendants Kentucky Fuel Corporation ("Kentucky Fuel"), Southern Coal Corporation ("Southern Coal"), and Anthem Health Plan of Kentucky, Inc. d/b/a Anthem Blue Cross Blue Shield ("Anthem") and others (collectively referred to as "Defendants") and others releasing and discharging their agents, employees, subsidiaries, successors, predecessors, heirs, executors, and assigns from any and all liability, of whatever nature, arising from or by reason of the injuries to the minor beneficiaries.

It is further ORDERED and ADJUDGED that Defendants be and are forever released and discharged of and from all claims for damages, of whatever kind of nature, on account of, connected with, or growing out of the injuries to the minor beneficiaries.

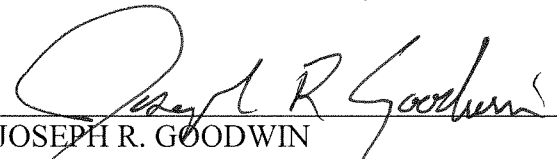
It is further ORDERED AND ADJUDGED that the sum of \$3100.00 (\$\_\_\_\_\_) be awarded to Mr. Bastress, for his services as guardian *ad litem*.

The legal guardians are hereby authorized to use the net proceeds of the settlement for the support and maintenance of the minor beneficiaries.

And it appearing to this Court that there is nothing further to be done herein, the Clerk of this Court is directed to strike the above civil action from the docket of this Court.

The Clerk is requested to certify a copy of this Order to counsel of record.

ENTER: *December 18, 2013*

  
JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE

**PRESENTED BY:**

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